

## **Part 5**

### **Restriction of Municipal Limits**

#### **10-2-501 Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.**

- (1) As used in this part "petitioner" means:
  - (a) one or more persons who:
    - (i) own title to real property within the area proposed for disconnection; and
    - (ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or
  - (b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.
- (2)
  - (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.
  - (b) Each request for disconnection shall:
    - (i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;
    - (ii) give the reasons for the proposed disconnection;
    - (iii) include a map or plat of the territory proposed for disconnection; and
    - (iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.
- (3) Upon filing the request for disconnection, the petitioner shall:
  - (a) cause notice of the request to be published:
    - (i) once a week for three consecutive weeks in a newspaper of general circulation within the municipality; and
    - (ii) in accordance with Section 45-1-101 for three weeks;
  - (b) cause notice of the request to be mailed to each owner of real property located within the area proposed to be disconnected; and
  - (c) deliver a copy of the request to the legislative body of the county in which the area proposed for disconnection is located.

Amended by Chapter 406, 2016 General Session

#### **10-2-502.5 Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.**

- (1) Within 30 calendar days after the last publication of notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.
- (2) At least seven calendar days before the hearing date, the municipal legislative body shall provide notice of the public hearing:
  - (a) in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located; and
  - (b) by publishing a notice:
    - (i)
      - (A) in a newspaper of general circulation within the municipality; or

- (B) if there is no newspaper as described in Subsection (2)(b)(i)(A), then by posting notice of the hearing in at least three public places within the municipality; and
- (ii) on the Utah Public Notice Website created in Section 63F-1-701.
- (3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.
- (4) Within 45 calendar days of the hearing, the municipal legislative body shall:
  - (a) determine whether to grant the request for disconnection; and
  - (b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.
- (5)
  - (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:
    - (i) the petitioner; or
    - (ii) the county in which the area proposed for disconnection is located.
  - (b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Amended by Chapter 406, 2016 General Session

**10-2-502.7 Court action.**

- (1) After the filing of a petition under Section 10-2-502.5 and a response to the petition, the court shall, upon request of a party or upon its own motion, conduct a court hearing.
- (2) At the hearing, the court shall hear evidence regarding the viability of the disconnection proposal.
- (3) The burden of proof is on the petitioner to prove, by a preponderance of the evidence:
  - (a) the viability of the disconnection;
  - (b) that justice and equity require that the territory be disconnected from the municipality;
  - (c) that the proposed disconnection will not:
    - (i) leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years;
    - (ii) make it economically or practically unfeasible for the municipality to continue to function as a municipality; or
    - (iii) leave or create one or more islands or peninsulas of unincorporated territory; and
  - (d) that the county in which the area proposed for disconnection is located is capable, in a cost-effective manner and without materially increasing the county's costs of providing municipal services, of providing to the area the services that the municipality will no longer provide to the area due to the disconnection.
- (4) In determining whether the petitioner has met the petitioner's burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall consider all relevant factors, including the effect of the proposed disconnection on:
  - (a) the municipality or community as a whole;
  - (b) adjoining property owners;
  - (c) existing or projected streets or public ways;
  - (d) water mains and water services;
  - (e) sewer mains and sewer services;
  - (f) law enforcement;
  - (g) zoning; and
  - (h) other municipal services.

- (5) The court's order either ordering or rejecting disconnection shall be in writing with findings and reasons.

Amended by Chapter 406, 2016 General Session

**10-2-506 Taxes to meet municipal obligations.**

- (1) If the court orders a disconnection of territory from a municipality, the court shall also order the county legislative body to levy taxes on the property within the disconnected territory that may be required to pay the territory's proportionate share of the municipal obligations accrued while the territory was part of the municipality.
- (2) Any tax levy ordered by the court under Subsection (1) shall be collected by the county treasurer in the same manner as though the disconnected territory were a municipality.
- (3) The county treasurer shall pay to those entities named by the court the revenue received from that tax levy.

Amended by Chapter 132, 1996 General Session

**10-2-507 Disconnection ordinance or decree -- Filing of notice and plat -- Recording requirements -- Effective date of disconnection -- Costs of disconnection.**

- (1) As used in this section, "disconnection action" means:
  - (a) the municipal legislative body's adoption of an ordinance under Subsection 10-2-502.5(4)(b) approving disconnection; or
  - (b) the entry of a court order under Section 10-2-502.7 ordering disconnection.
- (2) The municipal legislative body shall:
  - (a) within 30 days after the disconnection action, file with the lieutenant governor:
    - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
  - (b) upon the lieutenant governor's issuance of a certificate of disconnection under Section 67-1a-6.5:
    - (i) if the disconnected area is located within the boundary of a single county, submit to the recorder of that county:
      - (A) the original:
        - (I) notice of an impending boundary action;
        - (II) certificate of disconnection; and
        - (III) approved final local entity plat; and
      - (B) a certified copy of the ordinance approving the disconnection or court order ordering disconnection; or
    - (ii) if the disconnected area is located within the boundaries of more than a single county:
      - (A) submit to the recorder of one of those counties:
        - (I) the original of the documents listed in Subsections (2)(b)(i)(A)(I), (II), and (III); and
        - (II) a certified copy of the ordinance approving the disconnection or the court order ordering disconnection; and
      - (B) submit to the recorder of each other county:
        - (I) a certified copy of the documents listed in Subsections (2)(b)(i)(A)(I), (II), and (III); and
        - (II) a certified copy of the ordinance approving the disconnection or the court order ordering disconnection.

- (3) The disconnection is effective upon the lieutenant governor's issuance of a certificate of disconnection under Section 67-1a-6.5.
- (4)
  - (a) The effective date of a disconnection for purposes of assessing property within the disconnected territory is governed by Section 59-2-305.5.
  - (b) Until the documents listed in Subsection (2)(b) are recorded in the office of the recorder of each county in which the property is located, a county in which the disconnected territory is located may not:
    - (i) except as provided in Section 10-2-506, levy or collect a property tax on property within the disconnected territory unless the county was levying and collecting the tax immediately before disconnection;
    - (ii) levy or collect an assessment on property within the disconnected territory unless the county was levying and collecting the assessment immediately before disconnection; or
    - (iii) charge or collect a fee for service provided to property within the disconnected territory unless the county was charging and collecting the fee immediately before disconnection.
- (5) Any cost incurred by the municipality in complying with this section may be charged against the disconnected territory.

Amended by Chapter 350, 2009 General Session

**10-2-509 Costs.**

Each party to the court action for disconnection shall pay its own witnesses and the petitioner shall pay all other costs.

Amended by Chapter 406, 2016 General Session

**10-2-510 Boundary adjustment procedure not affected.**

This part may not be construed to abrogate, modify, or replace the boundary adjustment procedure provided in Section 10-2-419.

Amended by Chapter 378, 2010 General Session